



February 21, 2007

SENATE BILL No. 205

DIGEST OF SB 205 (Updated February 19, 2007 11:42 am - DI 52)

Citations Affected: IC 13-11; IC 13-15.

Synopsis: Environmental permits. Provides that a person must apply for a new permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought if the person: (1) fails to act under an environmental construction permit before the deadline established by statute or rule; or (2) applies for renewal of a permit. Provides that the period in which action is required is tolled pending administrative or judicial appeal. Allows the commissioner of the department of environmental management to revoke or modify a construction permit if a person fails to act under the permit before the deadline.

Effective: July 1, 2007.

Gard

January 8, 2007, read first time and referred to Committee on Energy and Environmental Affairs.
February 20, 2007, amended, reported favorably — Do Pass.

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SB 205—LS 6787/DI 52+



February 21, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 205

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-157.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 157.5. "Permit rules", for**
4 **purposes of IC 13-15-3 and IC 13-15-7, refers to any of the**
5 **following:**

6 (1) **326 IAC 2-1.1-9.**

7 (2) **326 IAC 2-2-8.**

8 (3) **327 IAC 3-2-3.**

9 (4) **327 IAC 3-2-5.**

10 (5) **327 IAC 8-3-2.**

11 (6) **327 IAC 8-3.5-10.**

12 (7) **327 IAC 15-5-12.**

13 (8) **327 IAC 15-6-10.**

14 (9) **327 IAC 15-13-19.**

15 SECTION 2. IC 13-15-3-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A permit issued
17 under:

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(1) this article (except IC 13-15-9);

(2) IC 13-17-11;

(3) IC 13-18-18; or

(4) IC 13-20-1;

may be issued for any period determined by the department to be appropriate but not to exceed five (5) years.

(b) Except as provided in federal law, a valid permit that has been issued under this chapter that concerns an activity of a continuing nature may be renewed for a period of not more than ten (10) years as determined by the department. The board shall adopt rules implementing this subsection.

(c) A person that:

(1) holds a valid construction permit issued under this chapter that authorizes construction; and

(2) has not commenced construction within:

(A) five (5) years after the date of the permit; or

(B) a shorter period established in IC 13-18-10-2.2 or permit rules;

must apply for a new construction permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(d) A period described in subsection (c) for a person to commence construction is tolled pending either of the following regarding the construction permit:

(1) An administrative appeal.

(2) A judicial review.

(e) The commissioner may delegate authority to issue or deny permits to a designated staff member.

SECTION 3. IC 13-15-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with rules of one (1) of the boards, the existing permit does not expire until a final determination on the application has been made by the department. However, the commissioner may seek injunctive relief with regard to the continuing activity of the permit applicant while the permit application is pending if the continuing activity of the permit applicant constitutes a threat to the public health, safety, or welfare.

(b) If a person holding a valid construction permit concerning a facility seeks a renewal of the permit and has not commenced construction of the facility, the person must submit a new

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construction permit application that complies with environmental laws existing at the time the new permit is sought.

~~(b)~~ **(c)** An application for renewal of a hazardous waste disposal facility operating permit under IC 13-22-3 must be submitted at least one hundred eighty (180) days before the expiration of the facility's current permit to be considered timely under this section.

SECTION 4. IC 13-15-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** Except as provided in sections 2 and 4 of this chapter, the commissioner or a designated staff member may revoke or modify a permit granted by the department under environmental management laws or IC 13-7 (before its repeal) for any of the following causes:

- (1) Violation of any condition of the permit.
- (2) Failure to disclose all of the relevant facts.
- (3) Any misrepresentation made in obtaining the permit.
- (4) Changes in circumstances relating to the permit that require either a temporary or permanent reduction in the discharge of contaminants.

(5) Failure of a permit holder to commence construction on the facility for which the construction permit was issued within:

- (A) five (5) years after the date of the permit; or**
- (B) a shorter period established in IC 13-18-10-2.2 or permit rules.**

~~(5)~~ **(6)** Any other change, situation, or activity relating to the use of a permit that, in the judgment of the department, is not consistent with the following:

- (A) The purposes of this title.
- (B) Rules adopted by one (1) of the boards.

(b) A period described in subsection (a)(5) for a person to commence construction is tolled pending either of the following regarding the construction permit:

- (1) An administrative appeal.**
- (2) A judicial review.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 205, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-157.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 157.5. "Permit rules", for purposes of IC 13-15-3 and IC 13-15-7, refers to any of the following:**

- (1) 326 IAC 2-1.1-9.
- (2) 326 IAC 2-2-8.
- (3) 327 IAC 3-2-3.
- (4) 327 IAC 3-2-5.
- (5) 327 IAC 8-3-2.
- (6) 327 IAC 8-3.5-10.
- (7) 327 IAC 15-5-12.
- (8) 327 IAC 15-6-10.
- (9) 327 IAC 15-13-19."

Page 1, line 17, delete "chapter;" and insert **"chapter that authorizes construction;"**.

Page 2, line 3, delete "different" and insert **"shorter"**.

Page 2, line 3, delete "another statute during" and insert **"IC 13-18-10-2.2 or permit rules;"**.

Page 2, delete line 4.

Page 2, delete lines 8 through 17, begin a new paragraph and insert:

"(d) A period described in subsection (c) for a person to commence construction is tolled pending either of the following regarding the construction permit:

- (1) An administrative appeal.**
- (2) A judicial review."**

Page 2, delete lines 36 through 40.

Page 2, line 41, delete "(d)" and insert **"(c)"**.

Page 3, line 4, after "1." insert **"(a)"**.

Page 3, line 19, delete "different" and insert **"shorter"**.

Page 3, line 19, delete "another statute during" and insert **"IC 13-18-10-2.2 or permit rules."**

Page 3, delete lines 20 through 27.

Page 3, line 28, delete "(7)" and insert **"(6)"**.

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Page 3, after line 32, begin a new paragraph and insert:

"(b) A period described in subsection (a)(5) for a person to commence construction is tolled pending either of the following regarding the construction permit:

(1) An administrative appeal.

(2) A judicial review."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 205 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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